

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GREGORY TYREE BROWN,

Plaintiff,

v.

DEVON SCHRUM *et al.* ,

Defendants.

Case No. C08-5326RBL/JKA

REPORT AND
RECOMMENDATION

**NOTED FOR:
July 25, 2008**

This proposed action has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. Plaintiff filed an incomplete motion to proceed *in forma pauperis*. The clerk's letter sent a deficiency letter to plaintiff informing him of the defects. Plaintiff then completed his application (Dkt. # 2 and 3).

His certified prison account shows a spendable balance of one thousand five hundred and fifteen dollars and forty-four cents (\$1515.44). Further, plaintiff receives three hundred dollars a month in retirement from the United States Air force. The court concludes plaintiff has the ability to pay the three hundred and fifty-dollar filing fee in this case.

REPORT AND RECOMMENDATION- 1

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2 The district court may permit indigent litigants to proceed *in forma pauperis* upon completion
3 of a proper affidavit of indigence. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion
4 in denying an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir.
5 1963), *cert. denied*, 375 U.S. 845 (1963). Plaintiff has shown the ability to pay the full filing fee.

6 Based on the above, the Court should deny plaintiff's application to proceed *in forma pauperis*.
7 Plaintiff has not shown that is unable to pay the full filing fee to proceed with his lawsuit. The court
8 should direct Mr. Brown to pay the filing fee within 30 days of the court's order and if he fails to pay the
9 filing fee the clerk should be directed to dismiss this matter.

10 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the
11 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R.
12 Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal.
13 Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the
14 clerk is directed to set the matter for consideration on **July 25, 2008**, as noted in the caption.

15 DATED this 25 day of June, 2008.

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17 /S/ J. Kelley Arnold
18 J. Kelley Arnold
19 United States Magistrate Judge
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